

Court of Appeals, State of Michigan

ORDER

People of MI v Walter N Holmes Jr

Docket No. 256093

LC No. 98-002451-FC

Michael J. Talbot
Presiding Judge

E. Thomas Fitzgerald

Michael R. Smolenski
Judges

The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting defendant's application for leave to appeal, the May 28, 2004 order of the trial court is REVERSED, and the matter is REMANDED for consideration on the merits of defendant's motion for relief from judgment. Relief was not available to defendant when he filed his *pro per* motion while his appeal was pending. MCR 6.508(D)(1). The trial court did not address the motion under subchapter 6.500, but treated it as a motion for new trial. Defendant has not had post-appellate review of his conviction and sentence.

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 3 2005
Date

Sandra Schultz Mengel
Chief Clerk